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December 19, 1994

By Hand Delivery

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Washington, DC 20554

Re: Cellular Communications of Puerto Rico, Inc.
Revision of Part 22 of the Commission's Rules
CC Docket No. 92-115 *et. al.*
Petition for Reconsideration

Dear Mr. Caton:

Enclosed herewith for filing on behalf of Cellular Communications of Puerto Rico, Inc. ("CCPR") are an original and four copies of its Petition for Reconsideration of the Commission's Order in the above-cited dockets. Pursuant to Section 1.49 of the Commission's Rules, CCPR will submit microfiche copies of its Petition within the week.

If you have any questions concerning this filing, please contact the undersigned.

Sincerely,



David H. Pawlik
Counsel for Cellular Communications of Puerto Rico,
Inc.

Enclosures

cc: Mr. Francisco Silva, Esq.

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FEDERAL COMMUNICATIONS COMMISSION
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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Revision of Part 22 of the Commission's)	CC Docket No. 92-115
Rules Governing the Public Mobile Services)	
)	
Amendment of Part 22 of the Commission's)	CC Docket No. 94-46
Rules to Delete Section 22.119 and Permit)	RM 8367
the Concurrent Use of Transmitters in)	
Common Carrier and Non-common Carrier)	
Service)	
)	
Amendment of Part 22 of the Commission's)	CC Docket No. 93-116
Rules Pertaining to Power Limits for Paging)	
Stations Operating in the 931 MHz Band in)	
the Public Land Mobile Services)	

Petition for Reconsideration
of
CELLULAR COMMUNICATIONS OF PUERTO RICO, INC.

To: The Commission

Cellular Communications of Puerto Rico, Inc. ("CCPR"), through its counsel, hereby requests the Commission to reconsider the Rules adopted in its *Report and Order* (FCC 94-201, hereinafter, "the Order") in the above-cited dockets released September 9, 1994. CCPR, through its affiliates, is the nonwireline cellular licensee or permittee in eleven of the twelve cellular MSAs and RSAs in Puerto Rico and in both RSAs in the United States Virgin Islands.

The Commission's Rules, as adopted in the Order, directly affect the manner in which CCPR and its affiliates provide cellular radiotelephone service to the public within these island territories. CCPR respectfully submits that the revised Part 22 Rules will better serve the public interest if they are clarified or revised in four ways, as discussed herein.

1. Relaxation of Filing Requirements for Certain Perimeter Cells.

Under the Commission's current rules, cellular licensees must inform the Commission of minor changes made to any of their cells or the addition of new cells to their systems by filing a Form 489. The Commission has eliminated the reporting requirement for cellular licensees with regard to modifications of cells other than those made to a "perimeter" cell that forms a cellular geographic service area ("CGSA") boundary. The Commission adopted this change because the public and other cellular licensees do not need this information and because it would save the Commission and the industry valuable resources. For the same reasons, the Commission should extend its relaxation of notification requirements to include the internal RSA and MSA borders of systems that are commonly owned or controlled and operated as integrated regional systems. The Commission should also not require notification of changes to those perimeter cells which have an affect only over large bodies of water, such as the Caribbean.

In both of these cases the rationale for eliminating the notifications applies equally as well as it does to internal "core" cells.

As the Commission has recognized, MSAs and RSAs were drawn in a manner designed to facilitate application filing and processing and not to reflect actual cellular system design or operation. The borders have served their purpose in establishing an orderly introduction of cellular service. By now, however, throughout much of the nation, cellular licensees have combined contiguous markets into regional systems which provide operators with economies of scale and consumers with larger "home" areas within which they are not subject to roaming fees. In such systems, including the one operated by CCPR in Puerto Rico and the Virgin Islands, the internal MSA and RSA borders are largely irrelevant.

With the exception of the Gulf of Mexico service area, cellular service is a *land-mobile* service. In port cities such as San Juan, cellular licensees frequently make modifications to cells to better serve the needs of consumers in heavily congested downtown areas. In such cities, the modifications to these cells have effects over large expanses of water, where there are no immediately adjacent licensees that will be affected.

The public has no need for information regarding a change to cells along either such purely "internal" borders as those in the interior of regional systems, or

along the shore of major bodies of water (with the exception of those cellular markets that adjoin the unique Gulf of Mexico service area). The Commission could preserve substantial resources for both itself and the industry by providing a clarification or modification to its rules that would eliminate the requirement for such filings.

2. Continuation of Dual-Licensing for Cellular Carriers.

Section 22.903(e) of the Commission's current rules permit a cellular licensee to establish its CGSA by including territory served by a cell located in an adjacent MSA or RSA. This is accomplished by "dual-licensing" the cell to both markets. The Commission has found that this procedure can serve the public interest by providing seamless cellular service without requiring wasteful, duplicative facilities. Pursuant to this finding, CCPR has used dual-licensing to serve two of its small RSAs. Despite the small size and sparse population of these areas, they receive high quality, cost-effective cellular service as a result.

In the Commission's revised rules, Section 22.903(e) has been eliminated. The discussion in the Order centers around paging operations, where dual licensing takes on an entirely different perspective. Section 22.903(e) should be reinstated in the Commission's revised Part 22, or in the alternative, the

Commission should add a rule which permits the dual licensing of cells to adjacent cellular markets under common ownership or control.

3. Prohibition of Unauthorized Wireless PBXs.

New Section 22.905 lists the frequencies on which cellular licensees are authorized to operate, limiting each channel block (A and B) exclusively to use by the licensee for that block within its CGSA. Pursuant to new Section 22.927, subscribers may utilize frequencies licensed to carriers, but only for the operation of mobile units authorized under their carrier's license.

CCPR has reason to believe that vendors are selling wireless private branch exchanges ("PBXs") directly to the public. These wireless PBXs are capable of being operated as base stations, connecting portable cellular phones with the public switched telephone network using both base and mobile cellular frequencies. The use of such facilities by the general public without the supervision or control of cellular licensees jeopardizes the provision of efficient, interference-free communications services to all cellular subscribers. For example, passing cellular subscribers may be "captured" by the wireless PBXs. In fact, if a cellular carrier's subscribers are served by a wireless PBX, the cellular licensee has no knowledge that these customers are active or that they are using its

frequencies. Thus the cellular carrier's ability to manage frequency usage within its licensed system is impaired. At such times, these users are not acting as cellular subscribers as contemplated by Section 22.927.

Vendors of these wireless PBXs may be relying on the ambiguity of the rules when informing customers that they may operate these systems independently of the cellular operator licensed by the Commission to use those frequencies. The Commission should clarify that only its cellular carrier licensees are capable of operating or authorizing wireless PBXs that operate on cellular frequencies within their licensed market areas.

4. Modification of Reporting Cell Site to CGSA Distances.

Schedule C of the Commission's new Form 600, used for applications for major modifications of cellular systems and as an attachment to notifications of minor modifications on FCC Form 489, requests information not required under the Commission's current rules. Column C21 requires the applicant to provide the distance from the CGSA boundary to the cellular base station that is the subject of the schedule. The distance is required, in kilometers, in each of eight compass radials. Because in most cases the CGSA will not be coterminous with the service area boundary ("SAB") of the subject cell, the requested information is significantly different from the "Distance to SAB" information requested in

Column C20. In radial directions other than those for which the cell's SAB forms the market perimeter, the C21 figure represents the distance from the cell to the far reaches of the MSA or RSA. In most cases, there is no efficient and accurate method of determining this distance. Although the exact geographic coordinates of the cell site are known, the coordinates of the CGSA boundary, most often a county line, can only be estimated. The Commission should clarify that (a) Column C21 is only required to be completed for radial directions in which the subject cell is a "perimeter" cell; and (b) Column C21 requires only an estimate, accurate to the nearest whole kilometer.

Conclusion

CCPR respectfully requests that the Commission reconsider its revision of its Part 22 rules to incorporate the foregoing recommendations; (1) that notifications not be required for cells internal to commonly owned or controlled regional cellular systems or those which result in changes only over water, (2) that dual licensing continue to be permitted for cellular carriers, (3) that the operation of wireless PBXs using cellular frequencies be limited to facilities under the control of cellular licensees, and (4) that the requirements of reporting the distance from a cell site to the CGSA be relaxed.

Respectfully submitted,
CELLULAR COMMUNICATIONS OF
PUERTO RICO, INC.



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